

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:)	Case No. 2809
)	
NICHOLAS WILLIAM BARTZ, D.O.)	STIPULATION AND CONSENT
Holder of License No. 2173 for the)	ORDER FOR SUSPENSION OF
practice of osteopathic medicine in the)	LICENSE
State of Arizona.)	
_____)	

STIPULATION

By mutual agreement and understanding, the Arizona Board of Osteopathic Examiners (hereafter "Board") and Nicholas William Bartz, D.O. (hereinafter "Respondent"), the parties hereto agree to the following disposition to this matter.

1. Respondent acknowledges that he has read this Stipulation and Consent Order; and, Respondent is aware of and understands the content of this document.
2. Respondent understands that by entering into this Stipulation, he voluntarily relinquishes any rights to a hearing on the matters alleged as grounds for Board action or to seek judicial review of the consent order in state or federal court.
3. Respondent understands that this Stipulation and Consent Order will not become effective unless approved by the Board and signed by its Executive Director.
4. Respondent further understands that this Stipulation and Consent Order, once approved and signed, shall constitute a public record as required by A.R.S. §§ 32-1855 (K).
5. Respondent admits to the statement of facts contained in this Stipulated Consent Order.

6. All admissions made by Respondent are solely for final disposition of this matter and any subsequent administrative proceedings or litigation involving the Board, Respondent and the State of Arizona; and, therefore, said admissions by Respondent are not intended for any other purpose or administrative regulatory proceeding or litigation in another state or federal court.

7. Respondent acknowledges and agrees that upon signing and returning this document (or a copy thereof) to the Board's Executive Director, he may not later revoke or amend this Stipulation or any part of the Consent Order, although said Stipulation has not yet been accepted by the Board and issued by its Executive Director, without first obtaining Board approval.

STATEMENT OF FACTS

8. This matter came before the Board of Osteopathic Examiners in Medicine and Surgery (hereafter "Board") at a public meeting on December 9, 2000 regarding Nicholas W. Bartz, D.O. (hereafter "Respondent"); and, the Board and Respondent mutually agree to the surrender of Respondent's license.

9. The Arizona Board of Osteopathic Examiners in Medicine and Surgery is empowered, pursuant to A.R.S. § 32-1800, et seq to regulate the licensing and practice of osteopathic medicine in the State of Arizona.

10. Respondent is a licensee of the Board and the holder of License No. 2173 for the practice of osteopathic medicine in the State of Arizona.

11. Information was brought to the attention of the Board that Respondent may be medically and/or psychologically unable to safely and skillfully engage in the practice of medicine and/or may have committed one or more acts of unprofessional conduct as defined in A.R.S. § 32-1854.

12. On June 21, 2000 the Board opened Case No. 2809 based upon the following information:

- a. On November 12, 1999 in the 30th Judicial Circuit Court of Ingham County, Michigan, Respondent was found guilty and convicted of three felony counts of Medicaid fraud-false claims in Case No. 96-69902-FH. These convictions were based on allegations that the Respondent filed false claims for osteopathic manipulation procedures which were never provided. According to the Response filed by Respondent, the billing amounts totaled \$27.00. On or about December 15, 1999, Respondent was sentenced to twelve months probation and ordered to pay fines, fees and restitution.
- b. On February 28, 2000 the State of Michigan, Department of Consumer & Industry Services, Board of Osteopathic Medicine and Surgery issued an Order of Summary Suspension charging Respondent with having acted in violation of sections 16221(b)(v), 16221(b)(vi), 16221(b)(ix) and 16221(d)(iii) of the Public health Code, 1978 PA 368, as amended.
- c. On April 11, 2000, the State of Michigan, Department of Consumer & Industry Services, Board of Osteopathic Medicine and Surgery issued an Order Dissolving Summary Suspension issued on February 28, 2000.
- d. On June 14, 2000 the State of Michigan, Department of Consumer & Industry Services, Board of Osteopathic Medicine and Surgery held an administrative hearing in Complaint No. 51-00-0313-00, Docket No. 2000-626 which set forth recommended Findings of Fact and Conclusions of Law. The administrative law judge determined that Respondent violated sections 16221(b)(v), 16221(b)(vi), 16221(b)(ix) and 16221(d)(iii) of the Public health Code, 1978 PA 368, as amended.

13. On August 17, 2000 the State of Michigan, Department of Consumer & Industry Services, Board of Osteopathic Medicine and Surgery submitted a Final Order which found that Respondent had violated the statutes and Revoked Respondent's medical license.

14. On July 3, 2000, Respondent filed a Motion for Directed Verdict of Acquittal in the Michigan Appellate Court regarding his felony convictions. That appeal is pending.

CONCLUSIONS OF LAW

The aforementioned conduct alleged against Respondent constitutes unprofessional conduct as defined at A.R.S. § 32-1855:

- (2) Committing a felony, whether or not involving moral turpitude, or a misdemeanor involving moral turpitude. In either case conviction by any court of competent jurisdiction is conclusive evidence of the commission.
- (14) Charging a fee for services not rendered or dividing a professional fee for patient referrals.
- (15) Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of medicine except as the same may be necessary for accepted therapeutic purposes.
- (18) The refusal, revocation or suspension of a license by any other state, territory, district or country, unless it can be shown that this occurred for reasons that did not relate to the person's ability to safely and skillfully practice osteopathic medicine or to any act of unprofessional conduct as provided in this section.
- (19) Any conduct or practice contrary to recognized standards of ethics of the osteopathic medical profession.
- (20) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any of the provisions of this chapter.
- (37) Violating a federal law, a state law or a rule applicable to the practice of medicine.

ORDER

Pursuant to the authority vested in the Board, **IT IS HEREBY AGREED AND ORDERED**

THAT:

Nicholas William Bartz, D.O. ("Respondent") agrees to a **SUSPENSION** of his license to practice as an osteopathic physician in the State of Arizona pending the outcome of the appeal of his present felony convictions in the State of Michigan after which Respondent shall come before the Board to resolve any allegations of unprofessional conduct arising from these matters; and,

Respondent shall no longer engage in the practice of medicine in the State of Arizona, after the effective date of this Order.

During the term of the suspension, Respondent shall maintain and satisfy all requirements for licensure.

REVIEWED AND ACCEPTED this 16 day of April, 2001.

Nicholas Wm Bartz, D.O.
Nicholas William Bartz, D.O.

Arizona
STATE OF ~~MICHIGAN~~)
County of MARICOPA)

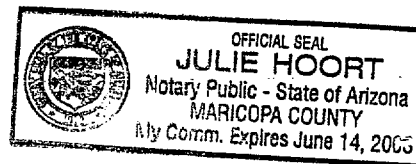
SS

This instrument was acknowledged before me this 16 day of April, 2001 by the above-named individual.

Julie Hoort
Notary Public

My Commission expires:

6/14/03



REVIEWED AND APPROVED as to form by counsel for Respondent on this 16th day of April, 2001.

Robert AS Bohm
Robert Bohm, Esq.

DATED AND EFFECTIVE this 23rd day of April, 2001.

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: Ann Marie Benzer

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Copy mailed by U.S. mail this 25th
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